

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
WESTEN WASHINGTON REGION
STATE OF WASHINGTON

PROTECT THE PENINSULA'S FUTURE,

Petitioner,

v.

CLALLAM COUNTY,

Respondent.

Case Nos. 00-2-0008 and 01-2-0020
Coordinated with 17-2-0003

**AMENDED ORDER ON
SUPPLEMENTATION AND ORDER OF
DISMISSAL**

This matter came before the Board on the Petitioner's request to "withdraw" the issues it raised in Case No. 17-2-0003 which involve a challenge of Clallam County's adoption of Ordinance 915.¹ By previous order Case No. 17-2-0003 was dismissed without ruling on the Petitioner's motion to supplement the record. Entry of this order acknowledges the Board prematurely issued an order of dismissal, corrects the failure to consider the requested supplementation, and again dismisses Case No. 17-2-0003.

The Petitioner moved to supplement the record in these coordinated cases with proposed Exhibits 1517 and 1518. Those proposed exhibits address the key issues raised in the 2017 case which involve the establishment of baseline conditions for wetlands and Aquatic Habitat Conservation Areas (AHCA) as well as provisions to monitor for harm or degradation of those conditions.

Exhibit 1517: The exhibit is entitled "Director's² Code Interpretation Re: Ordinance 915" and is dated March 15, 2017. Specifically, this exhibit provides as follows:

¹ PPF's Opening Brief on Compliance – PPF Requests Supplementation of the Record, Withdraws 17-2-0003, and Requests a Finding of Compliance in 00-2-0008 and 01-2-0020 (April 5, 2017). "Therefore PPF herein withdraws its issues raised in Case No. 17-2-0003"

² The "Director" is the elected Director of the Clallam County Department of Community Development.

1 “For the purposes of implementing Ordinance 915 (and only with respect to any
2 AHCA and wetland segments protected by the terms and conditions of Ordinance
3 915) the language in CCC 27.12.037(7)(b)(iii) be and is formally interpreted so that
4 when there is a new listing in a Department of Ecology’s 303(d) list when compared
5 to the 303(d) list dated December 21, 2012, this will be considered an indicator of
6 harm or degradation for that particular AHCA or wetland segment”.³

7 Exhibit 1518: This exhibit constitutes a stipulation between the parties in which they
8 agree that exhibits currently in the record, Exhibits 1500, 1056, 1510, 1503, and 1504 will
9 be used to establish the applicable baseline conditions.

10 The Board may supplement the record if evidence not included in the record is
11 “necessary or of substantial assistance to the board in reaching its decision”.⁴ WAC 242-
12 03-565(1) specifies “a motion to supplement the record ... shall state the reasons why such
13 evidence would be necessary or of substantial assistance to the board in reaching its
14 decision” “[T]he burden is on the moving party to demonstrate the evidence they wish to add
15 is necessary or of substantial assistance to the Board.
16

17 In this instance the parties agree that supplementation is appropriate. Based on the
18 parties agreement and the Board’s determination that supplementation is necessary or will
19 be of substantial assistance, supplementation will be granted.
20

21 ORDER

22 Based on the foregoing and pursuant to WAC 242-03-565(1) and WAC 242-03-
23 720(1)(a), the Board enters the following order:
24

- 25 1. The record shall be supplemented with Exhibits 1517 and 1518;
- 26 2. Case No. 17-2-0003 is dismissed and this case is closed;
- 27 3. Entry of this Order of Dismissal is not to be interpreted as approval by the Board
28 of the terms of any settlement agreement, nor any agreement to enforce the
29 terms of such settlement agreement.
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31
32 ³ Exhibit 1517 at 2.

⁴ RCW 36.70A.290(4).

1 DATED this 11th day of April, 2017.

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3 _____
4 William Roehl, Board Member

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6 _____
7 Nina Carter, Board Member